

WORKER'S DISABILITY COMPENSATION ACT OF 1969 (EXCERPT)
Act 317 of 1969

418.401 Definitions; determination of entitlement to weekly wage lost benefits; notice to Michigan employment security commission; priorities in finding employment; notice of employee refusing offer of employment; termination of benefits; "reasonable employment" defined; personal injuries or work related diseases to which section applicable.

Sec. 401. (1) As used in this chapter, "disability" means a limitation of an employee's wage earning capacity in work suitable to his or her qualifications and training resulting from a personal injury or work related disease. The establishment of disability does not create a presumption of wage loss.

(2) As used in this act:

(a) "Disablement" means the event of becoming so disabled.

(b) "Personal injury" shall include a disease or disability which is due to causes and conditions which are characteristic of and peculiar to the business of the employer and which arises out of and in the course of the employment. An ordinary disease of life to which the public is generally exposed outside of the employment is not compensable. Mental disabilities and conditions of the aging process, including but not limited to heart and cardiovascular conditions, shall be compensable if contributed to or aggravated or accelerated by the employment in a significant manner. Mental disabilities shall be compensable when arising out of actual events of employment, not unfounded perceptions thereof. A hernia to be compensable must be clearly recent in origin and result from a strain arising out of and in the course of the employment and be promptly reported to the employer.

(3) If disability is established pursuant to subsection (1), entitlement to weekly wage loss benefits shall be determined pursuant to this section and as follows:

(a) If an employee receives a bona fide offer of reasonable employment from the previous employer, another employer, or through the Michigan employment security commission and the employee refuses that employment without good and reasonable cause, the employee shall be considered to have voluntarily removed himself or herself from the work force and is no longer entitled to any wage loss benefits under this act during the period of such refusal.

(b) If an employee is employed and the average weekly wage of the employee is less than that which the employee received before the date of injury, the employee shall receive weekly benefits under this act equal to 80% of the difference between the injured employee's after-tax weekly wage before the date of injury and the after-tax weekly wage which the injured employee is able to earn after the date of injury, but not more than the maximum weekly rate of compensation, as determined under section 355.

(c) If an employee is employed and the average weekly wage of the employee is equal to or more than the average weekly wage the employee received before the date of injury, the employee is not entitled to any wage loss benefits under this act for the duration of such employment.

(d) If the employee, after having been employed pursuant to this subsection for 100 weeks or more loses his or her job through no fault of the employee, the employee shall receive compensation under this act pursuant to the following:

(i) If after exhaustion of unemployment benefit eligibility of an employee, a worker's compensation magistrate or hearing referee, as applicable, determines for any employee covered under this subdivision, that the employments since the time of injury have not established a new wage earning capacity, the employee shall receive compensation based upon his or her wage at the original date of injury. There is a presumption of wage earning capacity established for employments totalling 250 weeks or more.

(ii) The employee must still be disabled as determined pursuant to subsection (1). If the employee is still disabled, the employee shall be entitled to the wage loss benefits based on the difference between the normal and customary wages paid to those persons performing the same or similar employment as determined at the time of termination of employment of the employee and the wages paid at the time of the injury.

(iii) If the employee becomes reemployed and the employee is still disabled, the employee shall then receive wage loss benefits as provided in subdivision (b).

(e) If the employee, after having been employed pursuant to this subsection for less than 100 weeks, loses his or her job through no fault of the employee, the employee shall receive compensation based upon his or her wage at the original date of injury.

(4) A carrier shall notify the Michigan employment security commission of the name of any injured employee who is unemployed and to which the carrier is paying benefits under this act.

(5) The Michigan employment security commission shall give priority to finding employment for those persons whose names are supplied to the commission under subsection (4).

(6) The Michigan employment security commission shall notify the bureau in writing of the name of any

employee who refuses any bona fide offer of reasonable employment. Upon notification to the bureau, the bureau shall notify the carrier who shall terminate the benefits of the employee pursuant to subsection (3)(a).

(7) As used in this section, "reasonable employment" means work that is within the employee's capacity to perform that poses no clear and proximate threat to that employee's health and safety, and that is within a reasonable distance from that employee's residence. The employee's capacity to perform shall not be limited to work suitable to his or her qualifications and training.

(8) This section shall apply to personal injuries or work related diseases occurring on or after June 30, 1985.

History: Add. 1985, Act 103, Imd. Eff. July 30, 1985;—Am. 1986, Act 314, Imd. Eff. Dec. 23, 1986;—Am. 1987, Act 28, Imd. Eff. May 14, 1987.

Compiler's note: For legislative intent as to severability, see Compiler's note to MCL 418.213.

Former MCL 418.401, which pertained to definitions, was repealed by Act 103 of 1985, Imd. Eff. July 30, 1985.

Popular name: Act 317